IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.R.No.3405 of 2006
Date of Decision : December 07, 2006.

Gurnam Singh ..... Petitioner

Vs.

Union of India and others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.Arun Abrol, Advocate
for the petitioner.

* * *

P.S.Patwalia, J. (Oral) :

The present revision petition has been filed challenging the order dated 4.2.2006 vide which a second Execution Petition filed by the petitioner, plaintiff decree-holder in the suit, has been dismissed.

The plaintiff had filed a suit for declaration that the order dated 24.11.1993 vide which he had been dismissed from service as also the order dated 11.7.1994 passed in appeal should be declared unconstitutional and the plaintiff should be held to be continued in service and entitled to all service benefits including pay and allowances with interest. The prayer in the suit reads as hereunder :-

> *"Suit for declaration to the effect that the impugned order Bearing No.P-8-4/93-37-Satan-2 dated 24.11.1993 passed by defendant No.2 vide which the plaintiff was dismissed from service having been merged into the final impugned appellate order passed by the defendant No.3 bearing No; B-XIII-3/94-EC-III dated 11.7.1994*

vide which the appeal of the plaintiff was rejected are illegal unlawful ultervirous, against the principles of natural justice and rules, predence and law, equity and fair play, cryptic and punitive in nature, capricious, malicious, ineffective in violation of the mandatory provisions of statutory provisions of the service rules, unconstitutional constitute malice in law, therefore, null and void and not binding on the plaintiff and that the plaintiff still continue to be in service and is entitled to all the service benefits including pay and allowances with interest, as if the impugned order would had never been passed."

The last paragraph of the judgment of the trial court decreeing the suit is as hereunder :-

"In view of my discussion on the above said issues, the suit of the plaintiff is hereby decreed with costs. However, the defendants are at liberty to prove against the plaintiff afresh in accordance with law after serving show cause notice with enquiry report of the Enquiry Officer. Decree Sheet be prepared accordingly. File be consigned to the Judicial Record Room.

Announced. *Sd/-*
Dated : 30.8.97 *Civil Judge(Junior Division)*
Gurdaspur."

The decree is in consonance of the aforesaid paragraph. After this decree the petitioner filed an execution petition in which amounts as claimed by him were paid. The said execution was therefore dismissed on

16.3.1998. He therefore filed yet another execution. In that execution the petitioner primarily claimed interest. It is this petition which had been dismissed by the trial court.

After reading the relief granted by the Civil Judge which is in consonance with the decree it cannot be inferred that any interest was granted by the trial court. Learned counsel for the petitioner states that since suit of the plaintiff was decreed with costs and in the prayer he had made a claim for interest it should be inferred that interest was granted, even if there is no specific direction for payment of interest in the decree. I cannot accept such a contention. Unless the trial court had granted interest specifically at a rate which would have determined by the court it cannot be inferred that the plaintiff is entitled to interest.

I therefore do not find any error in the view taken by the trial court so as to warrant any interference by way of the present revision petition. The same is accordingly dismissed.

December 07, 2006 (P.S.Patwalia)
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